

DATED

18th APRIL

2022

(1) ELLIOT PINE

-and-

(2) THE MAYOR AND THE BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

DEED OF VARIATION

Relating to the Agreement dated 16 March 2021
Between the Mayor and the Burgesses of the
London Borough of Camden,
Elliot Pine and Unity Trust Bank Plc
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
21 MARESFIELD GARDENS, LONDON NW3 5SD

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5680
CLS/COM/HM/1800.2117
FINAL DoV

THIS DEED is made on the 1st day of APRIL 2022

BETWEEN

1. **ELLIOT PINE LIMITED** of 62 Wilson Street, London EC2A 2BU (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS:

- 1.1 The Council Owner and Unity Trust Bank Plc entered into an Agreement dated 16 March 2021 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 433051.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 17 September 2021 for which the Council resolved to grant permission conditionally under reference 2021/4544/P subject to the conclusion of this Deed.
- 1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 4, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

- 2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act
- 2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 16 March 2021 made between the Council, the Owner and Unity Trust Bank Plc
- 2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 16 March 2021 referenced 2020/2938/P allowing the conversion of dwelling to four self-contained flats, demolition of rear bay window and erection of two-storey rear extension, enlargement of rear dormer, two new rooflights, alterations to fenestration and new windows, cycle storage, bin enclosure, timber gates, air source heat pump and outbuilding in the rear garden as shown on drawing numbers: 01; 02 Revision 01; 03 Revision 01; 04 Revision 01; 05; 06; 07; 08; 09; 10; 11; 12; 13; 14; 15; 16 Revision 02; 17 Revision 01; 18 Revision 02; 19 Revision 02; 20 Revision 02; 21 Revision 02; 22 Revision 02; 23 Revision 02; 24; 25 Revision 02; 26; 27 Revision 02; 28; Arboricultural Report REV 1 dated 5th of August 2020 by Andrew Day; Tree protection plan dated 24th June 2020; Planning Compliance Report 20472.PCR.01 Rev A by KP acoustics; Sustainability Statement dated 19/06/2020 by HIVE Design Partnership; Design and Access/Heritage/ Planning Statement dated 23/06/2020 by AZ Urban Studio Limited.

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development" variation of planning permission dated 16 March 2021 to Variation of condition 3 (approved plans) of planning permission 2020/2938/P dated 16/03/2021 for 'Conversion of dwelling to four self-contained flats, erection of two-storey rear extension, enlargement of rear dormer, various alterations, cycle storage and outbuilding in the rear garden'; namely to increase height of rear extension by 160mm, Juliet balcony at 1st floor level, alterations to rear dormer to create a balcony as shown on drawing numbers: Superseded drawings: 17 Revision 01; 20 Revision 02; 21 Revision 02; 22 Revision 02; 23 Revision 02; 24; 26; 27; 28. Proposed drawings: 17 Revision 04; 20 Revision 04; 21 Revision 04; 22 Revision 04; 23 Revision 04; 24 Revision 04; 26 Revision 04; 27 Revision 04; 28 Revision 04.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2021/4544/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 17 September 2021 by the Owner and given reference number 2021/4544/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2020/2938/P" shall be replaced with "Planning Permission reference 2021/4544/P".

3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2021/4544/P.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS

5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common Seals to be affixed and the Mortgagee has caused this Deed to be executed as a Deed the day and year first above written.

EXECUTED AS A DEED BY
ELLIOT PINE
in the presence of:

)
)
)



Witness Signature

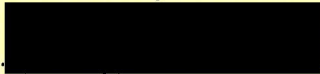
Witness Name: TRISTAN BYRNE

Address: Flat 3, 69 Belsize Park Gardens, NW3 4JP

Occupation: CONSULTANT

**CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO
21 MARESFIELD GARDENS, LONDON NW3 5SD**

**THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN**)
was hereunto affixed by Order:-)



.....
Duly Authorised Officer



**Andrew Maughan
Borough Solicitor**



Application ref: 2019/3663/P
Contact:
Tel: 020 7974
Date: 21 March 2022

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Andrew Dobson Architects
Unit 8
Elysium Gate
126 New King's Road
London
SW6 4LZ

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
4 Emerald Street
London
WC1N 3QA

PROPOSAL
Proposal:

Change of use of basement from storage (Class B8) to office (B1), erection of a single storey roof extension to provide additional habitable accommodation for flats plus a roof terrace, and alterations to front and rear fenestration.

Drawing Nos: 587-P0.001-A Rev. A; 587-P0.101-A Rev. A; 587-102-001-B; 587-P1.001-C Rev. C; 587-P1.002-C Rev. C; 587-P1.003-C Rev. C; 587-P1.004-C Rev. C; 587-P1.005-C Rev. C; 587-P1.008-C Rev. C; 587-P1.009-C Rev. C; 587-P1.010-C Rev. C; 587-P1.101-CD Rev. D; 587-P1.102-D Rev. D; 587-P1.103-D Rev. D; 587-P1.104-D Rev. D; 587-P1.105-D Rev. D; 587-P1.106-D Rev. D; 587-P1.108-D Rev. D; 587-P1.109-D Rev. D; 587-P1.110-D Rev. D; 587-P1.111-D Rev. D; 587-P2.001-A Rev. A; 587-P2.002-A Rev. A; 587-P2.003-A Rev. A; 587-P2.004-A Rev. A; Daylight and Sunlight Report by ECOstudio dated October 2021

587-P1.001-A; 587-P1.002-A; 587-P1.003-A; 587-P1.004-A; 587-P1.005-A; 587-P1.008-A; 587-P1.009-A; 587-P1.010-A; 587-1.101-C; 587-1.102-C; 587-1.103-C; 587-1.104-C; 587-1.105-C; 587-1.106-C; 587-1.107-C; 587-1.108-C; 587-1.109-C; 587-P1.110-C; Design and Access statement (dated 6th April)

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 587-P0.001-A Rev. A; 587-P0.101-A Rev. A; 587-102-001-B; 587-P1.001-C Rev. C; 587-P1.002-C Rev. C; 587-P1.003-C Rev. C; 587-P1.004-C Rev. C; 587-P1.005-C Rev. C; 587-P1.008-C Rev. C; 587-P1.009-C Rev. C; 587-P1.010-C Rev. C; 587-P1.101-CD Rev. D; 587-P1.102-D Rev. D; 587-P1.103-D Rev. D; 587-P1.104-D Rev. D; 587-P1.105-D Rev. D; 587-P1.106-D Rev. D; 587-P1.108-D Rev. D; 587-P1.109-D Rev. D; 587-P1.110-D Rev. D; 587-P1.111-D Rev. D; 587-P2.001-A Rev. A; 587-P2.002-A Rev. A; 587-P2.003-A Rev. A; 587-P2.004-A Rev. A; Daylight and Sunlight Report by ECOstudio dated October 2021

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

- a) Details including sections at 1:10 of all Crittal windows and entrance doors;
- b) Manufacturer's information and details at 1:10 of Herringbone brickwork

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 5 The development hereby approved shall achieve a maximum internal water use of 110 litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CC1, CC2 and CC3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

The existing building comprises residential at ground to third floor levels (4 studio flats) with an ancillary storage area in the basement.

The proposal would introduce B1 office use at basement level in place of the existing storage area. The Council encourages the provision of employment premises and sites particularly where suitable for start-ups / SMEs. The proposal would provide one unit measuring approx. 25sqm, which is suited for small businesses. The office use would be well suited to the site's location in the Central Activities Zone, a highly accessible area of the borough that has a commercial character. This change of use has also been previously approved in August 2018.

An additional storey of habitable accommodation is proposed at roof level. The residential provision would change from four studio flats to three studio flats and a 1-bed duplex. The existing studio units, which measure approx. 26 sqm each, fall significantly short of the 37sqm required by the nationally described space standards. However, they benefit from a Certificate of Lawfulness (ref. 2017/0368/P dated 21/02/2017) that demonstrated they had been in existence for at least 4 years. As such, there is no objection to re-providing the units within the proposal; however, it is noted that planning permission would not usually be granted for units that fall so significantly short of space standards. The proposed development would represent an improvement in residential accommodation overall as one of the undersized studios would be extended to become a 56sqm 1-bed duplex with dual aspect.

The roof extension would replace an existing pitched roof and would be slightly set back to the front to soften the impact of the additional height. The proposed height would fit comfortably within the streetscene, remaining lower than its altogether larger neighbour at no.6 whilst avoiding an overbearing impact on no.2 Emerald Street which sits a storey lower. The extension would be clad in zinc, an appropriate choice for a recessed non-original addition, with the side and rear walls constructed in matching brick to appear as a continuation of the building.

A terrace would be accommodated in the recessed section of the roof, finished with a metal balustrade. This would be visible from street level but, given the presence of the existing railing on the building and others on neighbouring buildings, it is not considered to detract.

To the front, the existing uPVC windows would be replaced with Crittal style windows within the existing apertures which is a welcome alteration.

At ground floor level, one large opening would be created combining a timber entrance door with a large Crittal window. A panel of herringbone brickwork in anthracite grey to match the window frames is proposed. The front alterations would be sensitive to the street context which has an industrial character and includes a number of warehouse buildings. To the rear, two Crittal windows are proposed in place of an existing window opening and dormer window. Further details of windows, doors and brickwork would be secured by condition. Altogether the external alterations would improve the appearance of the building and enhance this part of the Bloomsbury Conservation Area.

- 2 The additional height is not considered to bring about an unacceptable impact in terms of loss of light to nearby residential occupiers. A daylight and sunlight report has been submitted by the applicant which shows that there would not be any significant or noticeable impact on adjoining properties in terms of loss of day and sunlight and that such losses would comply with BRE guidelines. The property directly to the rear at no.39 Great James Street has planning permission to be converted into a large single family dwelling house. The rear windows facing the application site do not serve main habitable rooms. Furthermore, the distance is sufficient for the impact on any window to be negligible. The new rear windows would be in very similar locations to existing and therefore would not bring about a loss of privacy. The proposal is therefore not considered to cause any adverse impacts on the amenity of adjoining residential occupiers.

Due to space constraints, there is no scope for providing cycle parking on-site. Therefore, a financial contribution shall be secured to provide on-street cycle parking facility including 1 space for residential provision (relating to enlarged unit) and 1 space for the office floorspace. The cost of one 'M-shaped' stand would equate to £255.

The additional residential unit shall be secured as car-free to avoid increasing parking pressures on the surrounding streets, and encouraging the use of more sustainable transport modes.

Given the location of the property and the extent of the building works, a Construction Management Plan (CMP) and associated Implementation Support Contribution of £3,136 will be secured in addition to an Impact Bond of £7,500. As the property sits directly on the street, without any private forecourt area, it will also be necessary to secure a highways contribution towards repaving the adjacent footway, which could be damaged during the construction works. All obligations will be secured by means of a section 106 agreement.

The proposal is considered to preserve the character and appearance of the conservation area. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

One objection relating to loss of light has been received prior to making this decision. This and the planning history of the site have been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, H3, H6, E1, E2, T1, T2, D1 and D2 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2021.

- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 4 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 5 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 6 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 7 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.
- 8 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted.

Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

9 You are advised of the following comments from Thames Water:

The applicant should incorporate within their proposal, protection to the property to prevent sewage flooding, by installing a positive pumped device (or equivalent reflecting technological advances), on the assumption that the sewerage network may surcharge to ground level during storm conditions. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer.

Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate